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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,545	09/23/2003	Joshua T. Goodman	MS303964.1/MSFTP440US	4645

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EXAMINER	
HOMAYOUNMEHR, FARID	
ART UNIT	**PAPER NUMBER**
2132	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/28/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/669,545	GOODMAN ET AL.	
	Examiner	Art Unit	
	Farid Homayounmehr	2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 September 2003 and 04 December 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-70* is/are pending in the application.

4a) Of the above claim(s) *32-64,66,69 and 70* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-31,65,67 and 68* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *23 September 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. In response to the Restriction Requirement mailed on November 9, 2006, applicants' representative elected with traverse Group I - Claims 1-31, 65, 67, and 68. Therefore claims 32-64, 66, 69 and 70 are withdrawn from consideration.

2. Claims 1-31, 65, 67 and 68 have been examined.

Information Disclosure Statement PTO-1449

3. No Information Disclosure Statements was submitted by the applicant.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-24, and 65, 67, and 68 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

5.1. Claims 1-24 are directed to a system, which per page 7, lines 23 to 30 of specification is defined as: "As used in this application, the terms "component" and

"system" are intended to refer to a computer-related entity, either hardware, a combination of hardware and software, software, or software in execution. For example, a component may be, but is not limited to being, a process running on a processor, a processor, an object, an executable, a thread of execution, a program, and/or a computer. By way of illustration, both an application running on a server and the server can be a component. One or more components may reside within a process and/or thread of execution and a component may be localized on one computer and/or distributed between two or more computers."

Therefore, applicant's claims 1-24 are directed to computer software, which is a non-statutory subject matter.

5.2. Claims 65, 67, and 68 are directed to data packets, which is an integral for of data, which is non-statutory subject matter.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Pinkas (US Patent Application publication No. 2004/0073813), filed 4/25/2003.

7.1. As per claim 1, Pinkas is directed to a system facilitates identifying human interaction (abstract) comprising: an access control component that controls access to one of a computer-based action and computer-based application (parag. 21-22 describes an authentication system, which is a form of an access control to computer applications); and an identification component that facilitates determining that access is initiated by a human (parag. 21, where RTT distinguishes between a human and an automated program), the identification component presenting an order-based problem to be solved before access is allowed (the pin must be identified by the user and returned to the server for authentication. The pin must be entered in sequence, and therefore representing a solution to an order-based problem. This is clearly shown by Pinkas in, for example, parag 34).

7.2. As per claim 2, Pinkas is directed to the system of claim 1, the order-based problem comprising an arrangement of a plurality of objects whereby a user is asked to correctly identify at least a subset of the objects as well as to identify them in a particular order (the pin is comprised of characters, which are a form of an object, and must be recognized and entered in order as described in rejection of claim 1) the order

being based at least in part upon a set of instructions provided to the user (parag 31 to 34 indicates that the user must follow instructions to enter the PIN).

7.3. As per claim 3, Pinkas is directed to the system of claim 2, the objects comprising images, pictures, shapes, characters, and other visual elements which are identifiable by a human (the characters in the pin are identifiable by a human).

7.4. As per claim 4, Pinkas is directed to the system of claim 3, wherein any one of the images, pictures, shapes, characters, and other visual elements vary in at least one of size, dimension, color, and distortion (parag. 24).

7.5. As per claim 5, Pinkas is directed to the system of claim 1, the order-based problem being an order-based human interactive proof (HIP) (parag. 21, where it is shown a human interaction is detected and use of RTT is suggested).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 6-31, 65, 67, and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pinkas as applied to claims 1-5 above, and further in view of Mizrah (U.S. Patent Application Publication No. 2004/0225880, filed 5/7/2003).

9.1. As per claim 6, Pinkas is directed to the system of claim 1, the order-based problem being a "start to end" HIP wherein a user is required to find a path of a consistent type and identify objects such as characters along the path (per parag. 24, the characters must be recognized along a path from start to end. Pinkas suggests recognizing characters along a path. However, Pinkas does not specifically suggest recognizing a path. Mizrah clearly teaches recognizing a path buy the user in Figs. 8-12 and associated text.

Pinkas and Mizrah are analogous art as they are both directed to establishment of a secure channel between a user and a server. At the time of invention, it would have been obvious to a person skilled in art to incorporate Mizrah's teachings of recognizing a path to the system of Pinkas. The motivation to do so is suggested by Pinkas parag. 24, where it suggests mapping the characters in different locations on screen, and also use of different patterns that is recognizable by a human).

9.2. As per claim 7, Pinkas and Mizrah are directed to the system of claim 6, wherein the path of a consistent type comprises a subset of objects which are connected by a consistent type of connector, the connector being selected from a group consisting of

any one of arrows, lines, dotted lines, dashed lines, and shapes (use of arrows to describe the path is suggested by Mizrah Fig. 9 and associated text).

9.3. Limitations of claims 8-24 are directed to use and modification of different types of shapes and patterns, inclusion of background and foreground noise to partially obscure the objects, use of different colors, sizes and other modifications to the image to make it recognizable by human and not by a machine, which are well know techniques to a person skilled in the art. Barring any unexpected results, all modifications and addition of noise included in claims 8-24 would have been obvious to a person skillful in the art of human interaction detection.

9.4. Limitations of claims 25-30 are substantially the same as claims 1-24 above.

9.5. As per claim 31, Pinkas and Mizrah are directed to the method of claim 30, the acceptable answer being at least one of the following: a correct answer; and an answer consistently received from a percentage of users, whereby the percentage exceeds a minimum threshold (a correct answer is an acceptable answer in Pinkas).

9.6. Limitations of claim 65 are substantially the same as claims 1-31 above, with the added limitation of having a packet switched network carrying out the communication between the user terminal and the server. Use of packet switched networks for communication was well known at the time of invention.

9.7. Limitations of claims 67 and 68 are substantially the same as claims 1-31 above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farid Homayounmehr whose telephone number is 571 272 3739. The examiner can normally be reached on 9 hrs Mon-Fri, off Monday biweekly.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on (571) 272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Farid Homayounmehr

Examiner

Art Unit: 2132

Benjamin E. Lanier
Examiner AU 2132